

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

**SHEILA D. REEL,**

**Plaintiff,**

**vs.**

**Civil Action No. 2:09 CV 99  
(Maxwell)**

**MICHAEL J. ASTRUE,  
COMMISSIONER OF SOCIAL SECURITY,**

**Defendant.**

**ORDER**

It will be recalled that the above-styled social security appeal was instituted on August 14, 2009, with the filing of a Complaint by the Plaintiff, Sheila D. Reel.

It will further be recalled that the case was referred to United States Magistrate Judge David J. Joel in accordance with Rule 83.12 of the Local Rules of General Practice and Procedure.

On November 17, 2009, the Plaintiff's Motion For Summary Judgment and Brief In Support thereof were filed and on January 15, 2010, the Defendant's Motion For Summary Judgment and Memorandum In Support thereof were filed.

On March 2, 2010, Magistrate Judge Joel entered a Report and Recommendation ("R&R") wherein he recommended that the Defendant's Motion For Summary Judgement be granted; that the Plaintiff's Motion For Summary Judgment be denied; and that the decision of the Administrative Law Judge be affirmed. In said R&R, the parties were directed, in accordance with 28 U.S.C. §636(b)(1) and Rule 6(e)

of the Federal Rules of Civil Procedure, to file any written objections thereto with the Clerk of Court within fourteen (14) days after being served with a copy of said R&R. Magistrate Judge Joel's R&R expressly provided that a failure to timely file objections would result in waiver of the right to appeal from a judgment of this Court based thereon.

The docket in the above-styled civil action reflects that the Plaintiff's Objections to Magistrate Judge Joel's R&R were filed on March 11, 2010. In her Objections, the Plaintiff objects to the Magistrate Judge's finding that the Administrative Law Judge ("ALJ") was not required to consider SSR 99-2p when evaluating the Plaintiff's fibromyalgia; the Magistrate Judge's conclusion that substantial evidence supported the ALJ's finding that the Plaintiff did not have a "severe" mental impairment; the Magistrate Judge's recommendation that substantial evidence supported the ALJ's finding that the Plaintiff did not meet or medically equal the criteria of a listed impairment; the Magistrate Judge's finding that substantial evidence supported the ALJ's RFC finding that the Plaintiff could perform light work; the Magistrate Judge's recommendation that substantial evidence supported the ALJ's finding the Plaintiff could perform past relevant work; and the Magistrate Judge's recommendation that substantial evidence supported the ALJ's decision that the Plaintiff could perform other work in the national economy and was not, accordingly, disabled.

Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the Magistrate Judge's findings to which objection is made. The Court is not, however, required to review, under a *de novo* or any other standard, the factual or legal conclusions of the Magistrate Judge as to those portions of the

findings or recommendation to which no objections are made. Thomas v. Arn, 474 U.S. 140, 150 (1985).

As previously noted, on March 11, 2010, the Plaintiff filed her Objections to Magistrate Joel's R&R. The Court has conducted a *de novo* review only as to the portions of the R&R to which the Plaintiff objected. The remaining portions of the R&R to which the Plaintiff has not objected have been reviewed for clear error.

The Court finds that the Plaintiff has not, in her Objections, raised any issues that were not thoroughly considered by Magistrate Judge Joel in said Report And Recommendation. The Court is of the opinion that Magistrate Judge Joel's Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in the above-styled action. Accordingly, it is

**ORDERED** that Magistrate Judge Joel's March 2, 2010, Report And Recommendation (Docket No. 23) be, and is hereby, **ACCEPTED** in whole and that this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

**ORDERED** that:

1. The Defendant's Motion For Summary Judgment (Docket No. 21) is **GRANTED**;
2. The Plaintiff's Motion For Summary Judgment (Docket No. 15) is **DENIED**;
3. The decision of the Administrative Law Judge is **AFFIRMED**; and
4. The above-styled civil action is **DISMISSED** and **RETIRED** from the docket of this Court.

Pursuant to Rule 58 of the Federal Rules of Civil Procedure, the Clerk of Court is directed to enter a separate Judgment Order affirming the decision of the Defendant.

The Clerk of Court is directed to transmit copies of this Order and the Judgment Order to counsel of record.

**ENTER:** June 7, 2010

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**/S/ Robert E. Maxwell**  
United States District Judge